

§ 835.10

(b) Upon receipt of a subpoena, the employee shall immediately notify the General Counsel and provide all information requested by the General Counsel.

(c) The General Counsel shall determine the course of action to be taken and will so advise the employee.

[63 FR 71608, Dec. 29, 1998]

§ 835.10 Testimony in Federal, State, or local criminal investigations and other proceedings.

(a) As with civil litigation, the Board prefers that testimony be taken by deposition if court rules permit, and that testimony await the issuance of the factual accident report. The Board recognizes, however, that in the case of coroner's inquests and grand jury proceedings this may not be possible. The Board encourages those seeking testimony of Board employees to contact the General Counsel as soon as such testimony is being considered. Whenever the intent to seek such testimony is communicated to the employee, he shall immediately notify the General Counsel.

(b) In any case, Board employees are prohibited from testifying in any civil, criminal, or other matter, either in person or by deposition or interrogatories, absent advance approval of the General Counsel. The Board discourages the serving of a subpoena for testimony but, if issued, it should be served on the General Counsel, rather than the employee.

(c) If permission to testify by deposition or in person is granted, testimony shall be limited as set forth in § 835.3. Only factual testimony is authorized; no expert or opinion testimony shall be given.

[63 FR 71608, Dec. 29, 1998]

§ 835.11 Obtaining Board accident reports, factual accident reports, and supporting information.

It is the responsibility of the individual requesting testimony to obtain desired documents. There are a number of ways to obtain Board accident reports, factual accident reports, and accompanying accident docket files. Our rules at parts 801 and 837 of this chapter explain our procedures, as will our web site, at www.nts.gov. Or, you may

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call our Public Inquiries Branch, at (800) 877-6799. Documents will not be supplied by witnesses at depositions, nor will copying services be provided by deponents.

[63 FR 71608, Dec. 29, 1998]

PART 837—PRODUCTION OF RECORDS IN LEGAL PROCEEDINGS

Sec.

837.1 Purpose and scope.

837.2 Applicability.

837.3 Published reports, material contained in the public accident investigation dockets, and accident database data.

837.4 Other material.

AUTHORITY: 49 U.S.C. 1101 *et seq.*; 40101 *et seq.*; 5 U.S.C. 301.

SOURCE: 62 FR 27703, May 21, 1997, unless otherwise noted.

§ 837.1 Purpose and scope.

(a) This part sets forth procedures to be followed when requesting material for use in legal proceedings (including administrative proceedings) in which the National Transportation Safety Board (NTSB or Board) is not a party, and procedures to be followed by the employee upon receipt of a subpoena, order, or other demand (collectively referred to here as a demand) by a court or other competent authority or by a private litigant. "Material," as used in this part, means any type of physical or documentary evidence, including but not limited to paper documents, electronic media, videotapes, audiotapes, etc.

(b) The purposes of this part are to:

(1) Conserve the time of employees for conducting official business;

(2) Minimize the possibility of involving the NTSB in controversial issues not related to its mission;

(3) Maintain the impartiality of the Board among private litigants;

(4) Avoid spending the time and money of the United States for private purposes; and

(5) To protect confidential, sensitive information, and the deliberative processes of the Board.